

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN**

ADRIAN & BLISSFIELD RAIL ROAD COMPANY,
a Michigan railroad company

Plaintiff,

v.

SUNPATH LTD., a Delaware Corporation
ANDREW M. GARCIA, and individual and
JOSEPH A. ABRAHAM, an individual

Defendants

Case No.

Lower Court:
18th Judicial District Court
Case No. 19-80123-SC

NOTICE OF REMOVAL

Defendants SunPath LTD., Andrew M. Garcia, and Joseph A. Abraham hereby give notice of the removal of this action from the 18th Judicial District Court, State of Michigan to the United States District Court for the Eastern District of Michigan and, in support thereof, state as follows:

STATE COURT ACTION

1. On September 24, 2019, a lawsuit was commenced in the 18th Judicial District Court, State of Michigan, by Adrian & Blissfield Rail Road Company (“Plaintiff”), and assigned case number Case No. 19-80123-SC (the “State Court Action”). A summons and the complaint were served on the registered agent for

defendant SunPath LTD by process server on October 1, 2019. A copy of the summons and complaint are attached as Exhibit A.

BASIS FOR JURISDICTION

2. This action is removable to this Court under 28 U.S.C. § 1441(a), which provides that a defendant may remove a civil action brought in state court over which the district courts have original jurisdiction may be removed to the district and division embracing the place where such action is pending. Venue is proper in the United States District Court for the Eastern District of Michigan, as this is the district embracing the place where the State Court Act is pending, *i.e.*, 18th District Court sitting in city of Westland, Wayne County, Michigan. *See* 28 U.S.C. § 102(a)(1).

3. Plaintiff's complaint alleges violations of the Telephone Consumer Protection Act, 47 U.S.C. § 227 *et seq* ("TCPA"). Because these claims arise under the laws of the United States, this Court has original jurisdiction under 28 U.S.C. § 1331 and removal is appropriate under 28 U.S.C. § 1441(a).

4. Plaintiff's complaint also alleges claims arising under the Michigan Telephone Companies as Common Carriers Act, MCL 484.101 *et seq*. To the extent these claims are so related to the claims under the TCPA as to form the same case and controversy, this Court has supplemental jurisdiction under 28 U.S.C. § 1367(a) and removal is appropriate under 28 U.S.C. § 1441(a). In the

alternative, to the extent Plaintiff's claims arising under Michigan law are separate and distinct from the claims under the TCPA, removal of the claims is appropriate under 28 U.S.C. § 1441(c).

**SATISFACTION OF
PROCEDURAL REQUIREMENTS FOR REMOVAL**

5. Pursuant to 28 U.S.C. § 1446(b), this Notice is timely, having been filed with this Court within 30 days from the time a copy of the initial pleading was served or otherwise received by the Defendants.

6. A true and correct copy of this Notice has been sent to the Clerk of the 18th Judicial District Court, State of Michigan for filing as required by law. See Exhibit B.

7. Written notice of this Notice will be given to the adverse party as required by law.

8. Other than the complaint, Plaintiff has not served any other process, pleadings, and orders on the Defendants.

Based on the foregoing, Defendants gives notice of removal of the State Court Action to the United States District Court for the Eastern District of Michigan, and requests all future proceedings be held in this Court.

Respectfully submitted

/s/ Emily C. Palacios

Miller, Canfield, Paddock and Stone, P.L.C.

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Dated: October 22, 2019

CERTIFICATE OF SERVICE

I hereby certify that on October 22, 2019, I electronically filed the foregoing *Notice of Removal* with the Clerk of the Court using the court's electronic filing system, which will send notification of such filing to all parties of record, and served a copy by first-class U.S. Mail to Adrian & Blissfield Rail Road Company at 38235 North Executive Drive, Westland, Michigan 48185-1971.

/s/ Emily C. Palacios